

From: Shane Williams
To: Microsoft ATR
Date: 1/25/02 1:04pm
Subject: Microsoft Settlement

I am writing to indicate that I believe the proposed Microsoft settlement is insufficient, contains loopholes and does not properly ensure a fair market for competitors. A number of the flaws with the settlement are listed at <http://www.kegel.com/remedy/letter.html> (which I have co-signed).

In addition, I would like to emphasize a few problems in particular.

First, I strongly believe that one of the keys to creating a fair playing field for Microsoft's competitors (both in the OS and application markets) is opening ALL the APIs in all of Microsoft's OSs. Application developers have long believed that Microsoft (MS) has held back a number of "secret" APIs that allow its software to run more effectively and smoothly on its OSs. In my experience as a computer user I strongly believe this to be the case. Forcing MS to document such APIs openly and completely will place non-MS application developers on the same footing as MS application developers.

In addition, open and complete API documentation would allow competing operating systems to implement similar APIs in the own code. Such non-Microsoft implementations of Microsoft APIs would allow software written for Microsoft operating systems to be significantly more compatible with competing operating systems. In order to not put Microsoft at a disadvantage by requiring that only it release full API documentation, the settlement could stipulate that any competing operating system wishing to implement Microsoft's APIs should also make their APIs open and available.

On another note, I am greatly disappointed by the lack of a punitive facet to the proposed judgement. The Findings of Fact in this case clearly indicate that Microsoft abused its monopoly powers to increase its profits and keep out competitors. Furthermore, Microsoft's conduct during and since the trial would seem to indicate no sense of remorse over their actions. To this day they still paint this legal battle as the big government vs. "the right to innovate" rather than out of control monopoly vs. truly free markets. I strongly believe that corporations who not only violate antitrust laws, but continue to flout such restrictions should be punished. Further, if we follow the Findings of Fact that Microsoft's actions helped it strengthen its market position, it is only reasonable to assume that such strengthening led to an increase in Microsoft's profits, even if indirectly. For instance, it is worth noting that since Microsoft's market position has strengthened over the last decade, the prices of their products has increased at a rate beyond simple inflation. This

price-gouging is precisely one of the results that antitrust laws were designed to prevent.

Thank you for your consideration of these points regarding the proposed DOJ settlement with Microsoft and I look forward to hearing about changes to the currently proposed remedies.

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